



West Virginia E-Filing Notice

SERVE

CC-03-2021-C-83

Judge: Stacy L. Nowicki-Eldridge

To: R&R Ironworks, Co., LLC
7313 Confier Court
Indian Trail, NC 28079

NOTICE OF FILING

IN THE CIRCUIT COURT OF BOONE COUNTY, WEST VIRGINIA
Elmer Scott Perdue v. R&R Ironworks, Inc,
CC-03-2021-C-83

The following complaint was FILED on 12/23/2021 3:46:50 PM

Notice Date: 12/23/2021 3:46:50 PM

Sam R. Burns
CLERK OF THE CIRCUIT COURT
Boone County
200 State Street Suite 202
MADISON, WV 25130

(304) 369-7321
Sam.Burns@courtswv.gov

SUMMONS

E-FILED | 12/23/2021 3:46 PM
 CC-03-2021-C-83
 Boone County Circuit Clerk
 Sam R. Burns

IN THE CIRCUIT OF BOONE WEST VIRGINIA
Elmer Scott Perdue v. R&R Ironworks, Inc,

Service Type: Secretary of State - Certified - Including Copy Fee

NOTICE TO: R&R Ironworks, Co., LLC, 7313 Confier Court, Indian Trail, NC 28079

THE COMPLAINT WHICH IS ATTACHED TO THIS SUMMONS IS IMPORTANT AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS. YOU OR YOUR ATTORNEY ARE REQUIRED TO FILE THE ORIGINAL OF YOUR WRITTEN ANSWER, EITHER ADMITTING OR DENYING EACH ALLEGATION IN THE COMPLAINT WITH THE CLERK OF THIS COURT. A COPY OF YOUR ANSWER MUST BE MAILED OR HAND DELIVERED BY YOU OR YOUR ATTORNEY TO THE OPPOSING PARTY'S ATTORNEY:

G. VanBibber, 3950 Teays Valley Rd, Hurricane, WV 25526

THE ANSWER MUST BE MAILED WITHIN 30 DAYS AFTER THIS SUMMONS AND COMPLAINT WERE DELIVERED TO YOU OR A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY OR OTHER THINGS DEMANDED IN THE COMPLAINT.

SERVICE:

12/23/2021 3:46:50 PM

Date

/s/ Sam R. Burns

Clerk

RETURN ON SERVICE:

☐ Return receipt of certified mail received in this office on _____

☐ I certify that I personally delivered a copy of the Summons and Complaint to _____

☐ I certify that I personally delivered a copy of the Summons and Complaint to the individual's dwelling place or usual place of abode to _____, a member of the individual's family who is above the age of sixteen (16) years and by advising such person of the purpose of the summons and complaint.

☐ Not Found in Bailiwick

 Date

 Server's Signature

RECEIVED FOR
 CLERK OF COURTS
 2021 DEC 29 A 3 48

COVER SHEET**GENERAL INFORMATION**

IN THE CIRCUIT COURT OF BOONE COUNTY WEST VIRGINIA

Elmer Scott Perdue v. R&R Ironworks, Inc,**First Plaintiff:**☐ Business☒ Individual☐ Government☐ Other**First Defendant:**☒ Business☐ Individual☐ Government☐ Other**Judge:**

Stacy L. Nowicki-Eldridge

COMPLAINT INFORMATION**Case Type:** Civil**Complaint Type:** Other**Origin:**☒ Initial Filing☐ Appeal from Municipal Court☐ Appeal from Magistrate Court**Jury Trial Requested:**☒ Yes ☐ No**Case will be ready for trial by:** 12/1/2022**Mediation Requested:**☒ Yes ☐ No**Substantial Hardship Requested:** ☐ Yes ☒ No☐ Do you or any of your clients or witnesses in this case require special accommodations due to a disability?☐ Wheelchair accessible hearing room and other facilities☐ Interpreter or other auxiliary aid for the hearing impaired☐ Reader or other auxiliary aid for the visually impaired☐ Spokesperson or other auxiliary aid for the speech impaired☐ Other: _____☐ I am proceeding without an attorney☒ I have an attorney: G. VanBibber, 3950 Teays Valley Rd, Hurricane, WV 25526

SERVED PARTIES

Name: R&R Ironworks, Inc,
Address: 1738 Wesley Road, Morganton NC 28655
Days to Answer: 30 **Type of Service:** Secretary of State - Certified - Including Copy Fee

Name: R&R Ironworks, Co., LLC
Address: 7313 Confier Court, Indian Trail NC 28079
Days to Answer: 30 **Type of Service:** Secretary of State - Certified - Including Copy Fee

Name: Janice G. Moseley
Address: 1738 Wesley Road, Morganton NC 28655
Days to Answer: 30 **Type of Service:** Secretary of State - Certified - Including Copy Fee

Name: Roy J. Moseley III
Address: 1696 Wesley Road, Morganton NC 28655
Days to Answer: 30 **Type of Service:** Secretary of State - Certified - Including Copy Fee

Name: Jeremiah L Moseley
Address: 519 Ervin Road, Morganton NC 28655
Days to Answer: 30 **Type of Service:** Secretary of State - Certified - Including Copy Fee

Name: Robert Carl Webb
Address: 105 Pony Street, Morganton NC 28655
Days to Answer: 30 **Type of Service:** Secretary of State - Certified - Including Copy Fee

IN THE CIRCUIT COURT OF BOONE COUNTY, WEST VIRGINIA

**ELMER SCOTT PERDUE, and
TERESA ANN PERDUE,
His wife.**

Plaintiffs,

v.

Civil Action No. _____

Judge:

**R & R Ironworks, Inc. and
R & R Ironworks Co., LLC; and
Janice G. Moseley; and
Roy J. Moseley, III; and
Jeremiah L Moseley; and
Robert Carl Webb.**

Defendants.

COMPLAINT

Come now the Plaintiffs, Elmer Scott Perdue and Teresa Ann Perdue, his wife, by and through their attorney, G. Wayne Van Bibber, and respectfully represent and allege unto this Court as follows:

PARTIES, JURISDICTION AND VENUE

1. The Plaintiff Elmer Scott Perdue is a citizen and resident of Kanawha County, West Virginia.
2. The Plaintiff Teresa Ann Perdue is a citizen and resident of Kanawha County, West Virginia and is lawfully married to Plaintiff Elmer Scott Perdue.
3. Defendant R & R Ironworks, Inc. is a dissolved North Carolina business corporation that manufacturers steel trusses, metal roofing and steel building kits.
4. Defendant R & R Ironworks Co., LLC is a North Carolina limited liability company and successor to Defendant R & R Ironworks, Inc., that manufacturers steel trusses, metal roofing and steel building kits.

5. Defendants Janice G. Moseley, Roy J. Moseley, III and Jeremiah L Moseley were/are shareholders of Defendant R & R Ironworks, Inc.
6. Defendants Janice G. Moseley, Roy J. Moseley, III and Jeremiah L Moseley are members of Defendant R & R Ironworks Co., LLC.
7. Defendant Robert Carl Webb is a citizen and resident of Morgantown, North Carolina and was driving the 1995 Peterbilt tractor-trailer owned by Defendant R & R Ironworks, Inc. that caused Plaintiffs damages.

FACTS

8. On January 7, 2020, Plaintiff Elmer Scott Perdue was operating a F250 truck, owned by his employer, southbound on US Route 119. He was stopped in traffic at a stoplight at the intersection of US Route 119 and Lick Creek Rd. in Boone County, West Virginia.
9. Andrea Perdue was operating her 2019 Toyota Four Runner and was stopped directly behind Plaintiff Elmer Scott Perdue in traffic.
10. Defendant Robert Carl Webb was driving a 1995 Peterbilt tractor-trailer, owned by Defendant R & R Ironworks, Inc., southbound on US Route 119 carelessly, recklessly, and negligently causing the tractor-trailer he was driving to violently collide with the Toyota Four Runner driven by Andrea Perdue. The force of the impact was so great that it drove the Toyota Four Runner into the Ford F250 being operated by Plaintiff Elmer Scott Perdue causing him numerous physical injuries, mental anguish, and severe pain and suffering.

COUNT I.

NEGLIGENCE AGAINST DEFENDANT ROBERT CARL WEBB

11. Plaintiffs hereby incorporate by reference paragraphs 1 through 10 of this Complaint as if fully set forth herein.
12. At the aforementioned time and place, the Defendant, Robert Carl Webb failed to maintain control of his motor vehicle and, in violation of the laws of the State of West Virginia, negligently, carelessly and/or recklessly failed to stop for the red light and rear-ended the vehicle being driven by Andrea Perdue with such force that it drove her Toyota Four Runner into the rear of the Ford F250 being driven by Plaintiff Elmer Scott Perdue.
13. As a direct and proximate result of the negligent, careless, and/or reckless conduct of the Defendant, Robert Carl Webb, the Plaintiff, Elmer Scott Perdue, sustained severe and disabling personal injuries, was forced to seek medical treatment and incur medical expenses, has incurred and will in the future incur pain and suffering, aggravation, inconvenience, loss of the enjoyment of life, loss of the ability to function, and past and future medical and other expenses and past and future loss of income.

COUNT II.

LOSS OF CONSORTIUM

14. Plaintiffs hereby incorporate by reference paragraphs 1 through 13 of this Complaint as if fully set forth herein.
15. As a further direct and proximate result of the negligent, careless, and reckless actions of Defendant, Robert Carl Webb, Plaintiff, Teresa Ann Perdue, has suffered in the past and will suffer in the future a loss of society, companionship, consortium, comfort, guidance, kindly offices, services, and advice of her husband, the Plaintiff, Elmer Scott

Perdue. As such, she brings her claim for loss of consortium, as well as the value of household services and assistance.

16. That as a direct and proximate result of the negligence of the Defendant, Robert Carl Webb, the husband - wife relationship between the Plaintiff, Elmer Scott Perdue, and his wife, the Plaintiff, Teresa Ann Perdue, has been severely damaged.

COUNT III.

RESPONDEAT SUPERIOR

17. The Plaintiffs hereby incorporate by reference paragraphs 1 through 16 of this Complaint as if fully set forth herein.
18. Upon information and belief, at all times relevant herein, the Defendant, **R & R Ironworks, Inc.** was the owner of the 1995 Peterbilt tractor-trailer that the Defendant, Robert Carl Webb, was operating on January 7, 2020.
19. Upon information and belief, at all-time relevant herein, Defendant, Robert Carl Webb, was an employee, agent, and/or representative of Defendant, **R & R Ironworks, Inc.** acting within the course and scope of his employment, agency, and/or representation for the benefit of Defendant, **R & R Ironworks, Inc.**
20. Upon information and belief, on or about January 7, 2020, the tractor-trailer operated by the Defendant, Robert Carl Webb, was being operated under the PUCO and ICC MC numbers of the Defendant, **R & R Ironworks, Inc.**
21. The Defendant, **R & R Ironworks, Inc.** is liable for the conduct of its employees, agents, and/or representatives, including Defendant, Robert Carl Webb, under the doctrines of agency, vicarious liability, and *respondeat superior*.

22. As a direct and proximate result of the negligent, careless, and/or reckless conduct of the Defendant, **R & R Ironworks, Inc.** by and through its employees, agents, and/or representatives, including Defendant, Robert Carl Webb, the Plaintiff, Elmer Scott Perdue, sustained severe and disabling personal injuries, was forced to seek medical treatment and incur medical expenses, has incurred and will in the future incur pain and suffering, aggravation, inconvenience, loss of the enjoyment of life, loss of the ability to function, and past and future medical and other expenses and past and future loss of income.
23. As a direct and proximate result of the negligent, careless, and/or reckless conduct of the Defendant, **R & R Ironworks, Inc.** by and through its employees, agents, and/or representatives, including Defendant, Robert Carl Webb, Plaintiff Teresa Ann Perdue has suffered in the past and will suffer in the future a loss of society, companionship, consortium, comfort, guidance, kindly offices, services, and advice of her husband, the Plaintiff, Elmer Scott Perdue. As such, she brings her claim for loss of consortium, as well as the value of household services and assistance.
24. As a direct and proximate result of the negligent, careless, and/or reckless conduct of the Defendant, **R & R Ironworks, Inc.** by and through its employees, agents, and/or representatives, including Defendant, Robert Carl Webb, the husband-wife relationship between Plaintiff, Elmer Scott Perdue, and his wife, the Plaintiff, Teresa Ann Perdue, has been severely damaged.

COUNT IV.

SUCCESSOR LIABILITY

25. The Plaintiffs hereby incorporate by reference paragraphs 1 through 24 of this Complaint as if fully set forth herein.
26. According to the North Carolina Secretary of State's website Defendant R & R Ironworks, Inc. was dissolved almost immediately after January 7, 2021 collision.
27. Defendant R & R Ironworks, Inc. was a family-owned company that manufactured steel trusses, metal roofing and steel building kits.
28. Defendant R & R Ironworks Co., LLC is owned by the same family and manufactures steel trusses, metal roofing and steel building kits. As such Defendant R & R Ironworks Co., LLC is a mere continuation and reincarnation of Defendant R & R Ironworks, Inc.
29. As the successor to Defendant R & R Ironworks, Inc., Defendant R & R Ironworks Co. LLC is liable to the Plaintiffs for all damages suffered herein.

COUNT V.

SHAREHOLDER/MEMBER LIABILITY

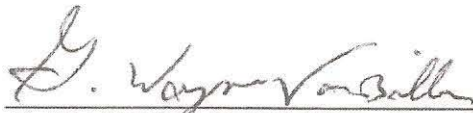
30. The Plaintiffs hereby incorporate by reference paragraphs 1 through 29 of this Complaint as if fully set forth herein.
31. Upon information and belief Defendants Janice G. Moseley, Roy J. Moseley, III and Jeremiah L. Moseley were stock/shareholders and owners of Defendant R & R Ironworks, Inc.
32. Upon information and belief Defendants Janice G. Moseley, Roy J. Moseley, III and Jeremiah L. Moseley received the assets of Defendant R & R Ironworks, Inc. upon its dissolution.

33. To the extent that they are or were in possession or control of the assets of Defendant R & R Ironworks, Inc., after its dissolution they are liable to the Plaintiff's for all damages suffered herein.

WHEREFORE, the Plaintiffs, Elmer Scott Perdue and Teresa Ann Perdue respectfully demand judgment against the Defendants, R & R Ironworks, Inc., R & R Ironworks Co., LLC, Janice G. Moseley, Roy J. Moseley, III, Jeremiah L Moseley and Robert Carl Webb for all damages allowed under applicable law in an amount in excess of the jurisdictional amount of this Court, together with prejudgment and post-judgment interests and costs, and for such other relief, both general and special, as to the nature of the matter this Court deem just and proper.

PLAINTIFFS DEMAND A TRIAL BY JURY

**Elmer Scott Perdue and
Teresa Ann Perdue,
By counsel,**



**G. WAYNE VAN BIBBER, Esq. (WVSB #6680)
The Law Offices of
G. Wayne Van Bibber & Associates, PLLC
3950 Teays Valley Road
Hurricane, WV 25526
(304) 757-3330
(304) 757-4506 (fax)**